

Code Compliance

— guidelines on Seattle regulations governing safety and quality of life

Seattle Laws on Property Owner and Tenant Rights and Responsibilities

Updated May 2, 2005

The Department of Planning and Development (DPD) administers and enforces Seattle's Housing and Building Maintenance Code (SMC Sections 22.200 - 22.208) and several other city ordinances affecting landlords and tenants. Members of DPD's Code Compliance staff are available to assist tenants and owners in understanding City code requirements.

This Client Assistance Memo is a general guide to the rights and responsibilities of Seattle tenants and rental property owners under city laws. For specific information on housing code requirements, consult the Housing and Building Maintenance Code (HBMC) or contact:

**Department of Planning and Development
Code Compliance
(206) 615-0808**

Location: 19th Floor, Seattle Municipal Tower
Mailing Address: 700 Fifth Ave., Suite 2000
P.O. Box 34019
Seattle, WA 98124-4019

The Washington State Residential Landlord/Tenant Act (RCW 59.18) also establishes rights and responsibilities for tenants and landlords. For further information about state law, contact one of the organizations listed at the end of this publication.

What the City requires of rental property owners

Under the HBMC, building owners in Seattle have an obligation to provide safe, clean, secure living conditions. Generally, owners have the responsibility to:

- Keep the premises fit for human habitation and keep

- any common areas reasonably clean and safe;
- Provide for control of insects, rodents and other pests;
- Maintain all structural components (roof, walls and foundation) and keep the unit weathertight;
- Maintain all electrical, plumbing, heating and other equipment and appliances supplied by the owner;
- Provide adequate containers for garbage;
- When responsible for heating rental units, maintain daytime (7:00 a.m. to 10:30 p.m.) temperatures at no less than 65 degrees Fahrenheit and nighttime temperatures at no less than 58 degrees Fahrenheit from September through June;
- Change lock mechanism and keys in non-transient accommodations upon change of tenancies, and provide unit and building entrance door keys to tenants;
- Install smoke detectors and instruct tenants as to their operation and maintenance.

Owners are not responsible for cosmetic repairs such as new carpeting and a fresh coat of paint after each tenancy. Code Compliance staff can answer questions about whether an apartment owner is responsible for a particular repair. Call (206) 615-0808 for more information.

Obligations of tenants

Tenants must meet an owner's reasonable expectations to maintain rental housing in a safe, clean manner, normal wear and tear excepted. Tenant responsibilities include:

- Proper disposal of garbage;
- Care in use of electrical and plumbing fixtures;
- Prompt repair of any damages caused by tenants or their guests;
- The granting of reasonable access to the owner for maintenance, repair and pest control;
- Maintaining smoke detectors in good working order, and
- Refraining from storing hazardous materials on the premises.



Available remedies if repairs are needed

Tenants may take the following action if repairs are needed:

- 1. Contact the owner.** A telephone call or letter is usually the way most tenants and owners resolve any problems. In most cases this will resolve the problem, but a written request for repairs is often required by law before tenants can exercise any other remedy. Remember to keep copies of all correspondence.
- 2. Report the problem to DPD.** If the owner or manager does not make the repair in a reasonable time, you may schedule an inspection by DPD. If the condition is in violation of the HBMC or the repair fails to rectify an HBMC violation, the inspector will require the owner to take corrective action. See the next section for more details.
- 3. Use other remedies available, including self-help repair, mediation, placing rent in escrow, and finally, moving out.** The Washington State Residential Landlord/Tenant Act (RCW 59.18) has limited remedies for tenants in situations where building owners fail to make code-required repairs within a reasonable time of being notified of the need. You must be current in your rent and utilities to exercise these options. These remedies *may* involve some form of rent withholding or reduction. As a general rule, however, simply withholding rent is not a suitable remedy; in fact, a tenant may be evicted for failure to pay rent. State law has specific rules about making deductions from rent or paying rent into an escrow account. For information on this subject, contact one of the tenants' assistance groups listed at the end of this publication.

Reporting a problem to DPD

Tenants may report the problem to DPD if the owner or manager does not make a repair in a reasonable time. Write, call or go in person to DPD Code Compliance, located on the 19th floor of Seattle Municipal Tower at 700 Fifth Ave., in downtown Seattle, (206) 615-0808.

- Call DPD to report the problem if a property owner or manager does not respond to repair requests and a complaint seems to be the only alternative remaining. Your name will be kept confidential if you so request.
- Specify everything needing inspection and give the address of the building including the unit number.
- Include a telephone number when asking DPD for assistance so the department can call to arrange a

time for an inspection. The person requesting assistance should be present during the inspection.

- If the inspector finds violations, the inspector will prepare a notice showing when the repairs must be made, notify the responsible party of the violation, and post the notice on the premises.
- The time for compliance is generally 30-60 days, depending upon the nature of the violations and any extensions the owner may receive. Forty-five days is the average time for compliance.
- If the owner does not make the required repairs, DPD will follow up through court action to attempt to attain compliance.

Seattle's Just Cause Eviction Ordinance

The Just Cause Eviction Ordinance is part of Seattle's HBMC. The intent of the ordinance is to provide clear standards for both tenants and rental property owners regarding the circumstances under which a month-to-month tenancy may be terminated and eviction can occur. The HBMC specifies the only reasons for which a tenancy can be terminated. It requires owners to list the reasons for ending the tenancy when sending a written termination notice.

The following definitions are important to distinguish between an eviction and a termination of tenancy:

Eviction: The end result of a formal legal action in civil court that requires a tenant to move pursuant to a legally issued written notice.

Termination of Tenancy: A written notice given by a landlord to a tenant requiring the tenant to move listing at least one reason specified in the Just Cause Eviction Ordinance.

Note: If a tenant refuses to move, only a court can force the tenant to leave.

The following is a summary of the reasons for which owners may end tenancies under the ordinance:

1. The tenant fails to pay rent within three days of a notice to pay rent or vacate.
2. The tenant habitually fails to pay rent on time, causing the owner to notify the tenant in writing of overdue rent four or more times in a 12-month period.
3. The tenant does not comply with material terms of a lease or rental agreement within 10 days of a notice to comply or vacate.
4. The tenant does not comply with a material obligation under the State Landlord-Tenant Act

within 10 days of a notice to comply or vacate.

5. The tenant habitually fails to comply with material terms of the lease or rental agreement, which causes the owner to serve a 10-day notice to comply or vacate three or more times in a 12-month period.
6. The tenant severely damages the rental unit (causes "waste"), causes a nuisance (including drug-related activity), or maintains an unlawful business, and does not vacate the premises within three days of a notice to do so. The type of damage, nuisance or unlawful business must be specified in writing on the notice.
7. The tenant engages in criminal activity in the building or on the premises or in an area immediately adjacent to the building or premises. The alleged criminal activity must substantially affect the health or safety of other tenants or the owner; illegal drug-related activity is one crime specified by the ordinance. A property owner who uses this reason must clearly state the facts supporting the allegation, and must send a copy of the termination of tenancy notice to DPD.
8. The owner wishes to occupy the premises personally, or the owner's immediate family will occupy the unit, and no substantially equivalent unit is vacant and available in the same building. Immediate family includes the owner's spouse or the owner's domestic partner, and the parents, grandparents, children, brothers and sisters of the owner, the owner's spouse or the owner's domestic partner. If the owner gives this reason to terminate a tenancy and then fails to carry it out, he or she may be subject to a civil penalty of up to \$2,500. A tenant whose tenancy is terminated for this reason has a private right of action if he or she feels an owner has failed to comply with these requirements.
9. The owner wishes to terminate the tenancy of a tenant who lives in the same housing unit with the owner; or the owner desires to stop sharing his or her house with a tenant living in an approved accessory dwelling unit (ADU) in an owner-occupied house.
10. The tenant's occupancy is conditioned upon employment on the property and the employment relationship is terminated.
11. The owner plans major rehabilitation that requires a permit and demonstrates that the work cannot be done with a tenant in occupancy. In addition, the

owner must comply with the requirements of the Tenant Relocation Assistance Ordinance. (See below for more information.) If the owner gives major rehabilitation as the reason to terminate a tenancy and then fails to carry it out, he or she may be subject to a civil penalty of up to \$2,500. A tenant whose tenancy is terminated for this reason has a private right of action if he or she feels an owner has failed to comply with these requirements.

12. The owner decides to convert the building to a cooperative or condominium. (See page 5 for information on the Condominium and Cooperative Conversion Ordinances.)
13. The owner decides to demolish a building or to convert it to non-residential use. The owner must first comply with the requirements of the Tenant Relocation Assistance Ordinance (see pg. 5) and obtain a necessary permit.
14. The owner desires to sell a single family residence and gives the tenant written notice at least 60 days prior to the end of a rental period. The owner must list the property for sale at a reasonable price in a newspaper or with a realty agency within 30 days after the date the tenant vacates. Property owners may be required to sign a certification of the intent to sell the house if DPD receives a complaint. There is a rebuttable presumption of an ordinance violation if the unit is not listed or advertised, or is taken off the market or re-rented within 90 days after the tenant leaves. A tenant whose tenancy is terminated for this reason has a private right of action if he or she feels an owner has failed to comply with these requirements.
15. The owner plans to discontinue the use of a housing unit which is not authorized by the Land Use Code, after receiving a Notice of Violation. The owner must pay relocation assistance to the tenants of each such unit at least two weeks prior to the date the tenant is to vacate. Low-income tenants must be paid \$2,000 relocation assistance; other tenants must be paid relocation assistance equal to two months' rent.
16. The owner needs to reduce the number of tenants sharing a dwelling unit in order to comply with Land Use Code restrictions (i.e., no more than eight people per dwelling unit if any are unrelated). For detailed instructions on procedures to terminate tenancies for this reason, please consult DPD Client Assistance Memo 610, "Terminating Tenancies under the Just Cause Eviction Ordinance."

17. The owner decides to terminate the tenancy of a tenant from a house containing an approved ADU in order to comply with the development standards for ADUs, after receiving a Notice of Violation of the Land Use Code. (If the violation is that the owner has moved out of the house and has rented both units, one unit must either be reoccupied by the owner or be removed.) The owner must pay relocation assistance to displaced tenants in the amount of \$2,000 for low-income tenants, or two months' rent in other cases. DPD may require a property owner to sign a certification of his or her intent to discontinue the use of the ADU.

18. An Emergency Order to vacate the property has been issued by DPD and the tenants have failed to vacate by the deadline given in the Order.

Failure to follow through with stated cause: If an owner terminates a tenancy for the reason that (1) sale of a single family residence is planned, (2) the owner or a family member is to move in, (3) substantial rehabilitation is planned, (4) the number of residents must be reduced to eight, or (5) the owner is discontinuing an ADU after receipt of a notice of violation, and the owner fails to carry out the stated reason for eviction, he or she may be subject to enforcement action by the City and a civil penalty of up to \$2,500.

Private right of action for tenants: If an owner terminates a tenancy because (1) sale of a single family residence is planned, (2) the owner or a family member is to move in, or (3) substantial rehabilitation is planned, and if the owner fails to carry out the stated reason for eviction, the tenant can sue the owner for up to \$2,000, costs, and reasonable attorney's fees.

Unless otherwise noted above, a termination of tenancy notice must be given at least 20 days prior to the start of the next rental period and must state the reason for termination in writing. Only those reasons listed above are lawful causes for terminating month-to-month tenancies in Seattle. For more information, call DPD Property Owner and Tenant Assistance at (206) 684-7867 or (206) 386-9733.

Please note, under state law tenants wishing to terminate month-to-month tenancies must also follow proper notice procedures, notifying the owner or manager in writing at least 20 days before the start of the next rental period.

Enforcement of the Just Cause Eviction Ordinance

DPD Code Compliance staff will investigate complaints

of an illegal termination of tenancy. If a complaint is determined to be valid, the Department will inform the landlord of the requirements of the Ordinance and will issue a Notice of Violation should the landlord refuse to rescind the termination notice. If the landlord fails to rescind the notice within the compliance period given in the Notice of Violation, the case will be referred to the City Attorney's Office. A person convicted of illegally terminating a tenancy can be penalized by a civil fine of \$15 per day per unit until the violation is corrected.

Within 10 days after receiving an HBMC Notice of Violation, the building owner or any affected party may file a written request for an administrative review before a DPD representative. DPD must hold the review between 10 and 20 days from filing of the written request. Anyone interested may attend, and all affected parties may make statements pertaining to the issue. Following the review, the Director may sustain, modify or withdraw the Notice of Violation.

Records a property owner should keep to prepare for termination of tenancy proceedings

Owners are advised to maintain the following records to support a case for terminating a tenancy:

1. A specific written rental agreement, with rules that apply equally to all tenants;
2. Records of rental payments; and
3. Copies of notices given to tenants, with evidence that all legally required notices were properly served.
4. Any information or documentation to support a termination of tenancy, such as police incident reports or complaints from neighbors.

Notices for termination of tenancy must specifically state the reasons for the termination. For example, a notice for habitual late payment of rent could state:

"You were notified in writing on January 3, 1999, February 3, 1999, March 3, 1999, and April 3, 1999, that your rent was late. It is due and payable on the first day of each month."

Actions that are considered to be harassment or retaliation

The HBMC prohibits certain actions taken against either a tenant or an owner. This section of the HBMC is enforced by the Seattle Police Department and carries criminal penalties.

The following actions constitute harassment or retaliation against the **tenant**:

1. Changing locks on unit doors;
2. Removing doors, windows, fuse box, or other fixtures;
3. Discontinuing gas, electricity, water, or other utilities supplied by owner;
4. Removing a tenant from the premises except through the legal eviction process;
5. Evicting, increasing rent or threatening a tenant because that tenant has reported violations of the HBMC to DPD or has exercised any legal rights arising out of the tenant's occupancy of the building; or
6. Entering a tenant's unit, except in an emergency or with the tenant's consent after giving appropriate notice of intent to enter.

The following actions constitute harassment or retaliation against the **owner**:

1. Changing locks on unit doors.
2. Removing owner-supplied fixtures, furniture or services.
3. Willfully damaging the building.

Instances of harassment or retaliation against an owner or a tenant should be reported to the Seattle Police by calling the non-emergency number.

Other City ordinances affecting tenants and rental property owners

1. Tenant Relocation Assistance Ordinance

This ordinance applies when tenants are displaced by housing demolition, change of use, substantial rehabilitation, or removal of use restrictions from government assisted housing.

A property owner who plans development activity must obtain a tenant relocation license and a building or use permit before he or she can terminate a tenancy. All tenants must receive a 90-day notice of the activity that will require them to move. Eligible low income tenants, whose income cannot exceed 50% of median income, receive \$2,336 relocation assistance, half of which is paid by the owner, half paid by the City.

2. Rental Agreement Regulation Ordinance

This law has three provisions that landlords should be aware of:

Notice for Rent Increase Over 10%: Landlords who

intend to increase housing costs, including rent, by more than 10% within a 12-month period must give 60 days written notice of such an increase.

Information Disclosure: Seattle landlords must give prospective tenants a copy of a summary of the City and state landlord-tenant laws when they offer a rental agreement. The summary must be attached to all written rental agreements, and must be given to tenants who are offered a verbal rental agreement. All current tenants also must have been given a copy.

The summaries are available on the "Publications" page of DPD's website at www.seattle.gov/dpd/publications. Paper copies are available from the DPD Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. Each customer will receive one duplicable master copy. To request a copy by mail, send a stamped (\$0.55) self-addressed envelope to the DPD Publications Clerk, 700 Fifth Ave., Suite 2000, P.O. Box 34019, Seattle, WA 98124-4019.

Prohibited Rental Agreement Provision: Under this law, landlords are not allowed to have month-to-month rental agreements that penalize a tenant for moving out before a minimum number of months (e.g., six months) have passed since the start of the tenancy. A landlord cannot withhold a deposit or charge an additional fee if a tenant gives legal written notice to terminate his or her tenancy, and moves out after even one month. If a landlord wants a tenant to stay a minimum number of months, the landlord should offer the tenant a lease; **leases** can contain provisions for penalties if the tenant moves out before the lease expires.

Tenants can bring a private civil action against landlords who violate these provisions. A landlord who is found in violation could be required to pay penalties as well as the tenant's actual damages, court costs, and attorney fees.

3. Condominium and Cooperative Conversion Ordinances

When an apartment building is being converted to condominiums or cooperative units, the Condominium and Cooperative Conversion Ordinances require a housing code inspection and that tenants receive a 90-day written notice of the conversion. Tenants have a 60-day option to purchase their own unit before it can be offered for sale to the public. If the tenant decides not to buy his or her unit, the tenant may be eligible to receive \$500 relocation assistance from the developer. To be eligible, the

tenant's income cannot exceed 80% of median income. The relocation assistance must be paid no later than the time that the unit is vacated.

For more information on these ordinances, call (206) 684-7867 or (206) 386-9733.

4. Third Party Billing Ordinance

This ordinance defines rules for landlords who, by themselves or through private companies, bill tenants for City provided utilities (water, sewer, garbage, electric services) separately from their rent. The ordinance applies to all residential buildings having three or more housing units.

The rules require a landlord or billing agent to provide tenants with specific information about their bills and to disclose their billing practices, either in a rental agreement or in a separate written notice. It is a violation of the ordinance if a landlord imposes a new billing practice without appropriate notice.

A tenant can dispute a third-party billing by notifying the billing agent and explaining the basis for the dispute. This must be done within 30 days of receiving a bill. The billing agent must contact the tenant to discuss the dispute within 30 days of receiving notice of the dispute. A tenant can also file a complaint with the Seattle Office of the Hearing Examiner or take the landlord to court. If the Hearing Examiner or court rules in favor of the tenant, the landlord could be required to pay a penalty.

Additional information

Other groups that can provide information to tenants and rental property owners include:

1. Fremont Public Association
(206) 694-6767
www.fremontpublic.org

Provides information and counseling on legal rights and responsibilities under the State Residential Landlord/Tenant Act and other statutes.

2. Legal Action Center
(Catholic Community Services)
(206) 324-6890
www.ccsww.org/familyservices/kingcounty/andolph_carter_center

Provides information and assistance to low income tenants faced with eviction.

3. Tenants Union
(206) 723-0500
www.tenantsunion.org

Provides information and counseling on landlord/tenant problems. The Tenants Union also provides workshops, training and technical assistance for advocates and tenants groups on dealing effectively with landlords.

4. Washington State Attorney General's Office
(206) 464-6811
www.atg.wa.gov

Provides information about legal rights under the Residential Landlord/Tenant Act. The Attorney General's Office also has a Consumer Line Information Service which has recorded tapes on landlord/tenant topics at (206) 464-6811.

5. Rental Housing Association of Puget Sound
(206) 283-0816
www.rha-ps.com

Provides information on legal rights and responsibilities under the State Residential Landlord/Tenant Act and other codes. RHAPS is the professional organization of Puget Sound rental property owners.

6. King County Dispute Resolution Center
(206) 443-9603
www.kcdrc.org

Provides mediation services to landlords and tenants. The center acts as an alternative forum to the formal court system for settling disputes.

7. Seattle Office for Civil Rights (206) 684-4500

www.seattle.gov/civilrights

Enforces the City's Open Housing Ordinance which protects tenants against differential treatment based on race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, political ideology or the presence of any sensory, mental or physical handicap, the use of a Section 8 Certificate, or the use of a trained guide or service animal by a disabled person.

8. King County Bar Association

■ Neighborhood Legal Clinics

(206) 267-7070

www.kcba.org/CLS/NLC/clients.html

Call to schedule an appointment for a free legal consultation. Clinics are available at numerous locations. Call between 9 a.m. and noon, M-Th.

■ Housing Justice Project

(206) 267-7090

www.kcba.org/CLS/HJP/clients.html

Represents low-income tenants subject to eviction.

■ Volunteer Legal Services

(206) 267-7010

www.kcba.org/CLS/VLS/clients.html

Provides representation through volunteer attorneys to clients facing eviction.

9. Washington LawHelp

www.washingtonlawhelp.org

Provides a wide range of information on housing issues specific to the state of Washington, including tenants' rights, eviction, public and subsidized housing, emergency shelter and assistance, home buyers, home owners, mobile home park tenants, small claims court, energy assistance, utilities and telecommunications. Information can be accessed only through the website.

10. Olympic Rental Association

(888) 753-9150

www.olympicrental.com

Provides information on a wide variety of issues important to rental property owners and managers.

Additional landlord/tenant resources are available on DPD's website at www.seattle.gov/dpd/publications, including:

- Rights & Responsibilities of Landlords and Tenants
- Translated Versions of Landlord-Tenant Information
- Interpreter Service
- Just Cause Eviction and Tenant Relocation
- Conflict Resolution Training
- Filing a Complaint

Access to Information

Links to electronic versions of DPD **Client Assistance Memos (CAMs)**, **Director's Rules**, and the **Seattle Municipal Code** are available on the "Publications" and "Codes" pages of our website at www.seattle.gov/dpd. Paper copies of these documents, as well as additional regulations mentioned in this CAM, are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.